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**SCHIZOPHRENIC SANCTIONING:
A FAILED U.S. POLICY TOWARD CHINA**

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SCHIZOPHRENIC SANCTIONING: A FAILED U.S. POLICY TOWARD CHINA

I. INTRODUCTION

Despite its successful revolution in 1949, the People's Republic of China (PRC) was still vying for full recognition as the legitimate government for all of China (including Taiwan) over twenty years later. Among those countries refusing to recognize the PRC as the government of China was the United States. However, in the early 1970s the United States and the PRC started a process toward normalization of relations. That process culminated on January 1, 1979 with the United States formally recognizing the PRC as China's sole legal government.¹

Although a strategic imperative, the Soviet threat, initially provided the catalyst for the U.S.-China rapprochement, the countries were later to recognize strong mutual economic interests as further reason for cooperation. Despite these common interests, however, the two countries remained apart ideologically, and this led to a series of events that prevented the two countries from enjoying what could be characterized as truly "normal" relations.

The most dramatic and most publicized of these events was the violent suppression by the PRC of political demonstrations at Tiananmen Square in early June 1989. That violence and the subsequent increased political repression within China led to a dramatic cooling in Sino-American relations in 1989 and continue to influence Sino-American relations today.

This paper will examine the U.S. response to events at Tiananmen Square and to other later disputes with China. In particular, this paper will focus on the United States' use of sanctions, beginning in June 1989, to try to alter China's behavior in the area of human rights and missile proliferation. This examination will (1) demonstrate the failure of U.S. sanctions to achieve U.S. goals, (2) assess the likely reasons for this failure, and (3) recommend changes in U.S. policy and actions to achieve U.S. goals.

The starting point for this examination is the U.S. response to the Tiananmen Square incident.

II. U.S. HUMAN RIGHTS CAMPAIGN AGAINST CHINA: TIANANMEN AND BEYOND

A. PRE-JUNE 4TH SIGNAL OF LIKELY U.S. RESPONSE

The U.S. response to events at Tiananmen Square started before the violence on June 4, 1989. Student demonstrations throughout China started shortly after the death of Party Leader Hu Yaobang on April 15, 1989. Although student demonstrations were widespread throughout major cities in China, for the most part they were peaceful and the Chinese government's response was restrained.

Because of these events, however, the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs held a hearing on May 4, 1989.² During this hearing, discussion focused on the appropriate U.S. response if China used force to deal with the demonstrations. The committee heard from three witnesses: Ambassador Richard L. Williams, Acting Deputy Assistant Secretary of State, East Asian and Pacific Affairs; Mr. Pei Minxin, a Chinese student from Harvard University; and, Mr. Harry Harding, China scholar and senior fellow at The Brookings Institution.

Subcommittee Chairman, Mr. Solarz, asked Ambassador Williams whether the United States had a stake in the political stability in China and whether Ambassador Williams thought too rapid political reform could jeopardize that stability.³ Williams acknowledged that the United States had a stake in stability within China. He elaborated by saying: "[w]e are for absolute freedom of expression and press, and so forth, but I do not believe that we advocate any country taking steps which would result in social chaos, and thus be incapable of reaching the goals which we want."⁴ His remarks seemed to accept limits on the pace of political reform we could reasonably expect within China.

In response to a more direct question regarding implications for Sino-American relations if China used force to suppress the protest movement, Ambassador Williams responded:

Human rights . . . are an important interest of the United States . . . and so . . . a crackdown would have an effect of some kind on the relationship. Precisely what would depend on the nature and extent of the crackdown, as we balance off this against other national interests that we have in the relationship . . . It would certainly cause us to express our concerns forcefully
.....

But also depend . . . on the activities of the demonstrators. We are strongly supportive of the right to peaceful demonstration, but some of these demonstrations, such as in Xian and Changsa, have been accompanied by looting of stores . . ., so that there is a need to maintain public order, which we would acknowledge. (emphasis added)⁵

This message from an Administration spokesman suggested our interest in democratization and human rights would not necessarily dictate our response. Other interests, such as economic, would also influence our reaction to China's use of force. Further, acknowledging that demonstrators had engaged in illegal activity (e.g., looting) and that China had the right to maintain public order suggested our response to China's later use of force to quell these disturbances might be tempered.

Testimony by Mr. Pei foreshadowed President Bush's later use of sanctions that was criticized by Congress as too lenient. He suggested that the United States tell China immediately that its use of force to deal with the demonstrations would have serious consequences. When pressed regarding what sanctions he would recommend, he responded: "Let me first state a principle guiding sanctions. I think they should not hurt the Chinese people in general . . ."⁶ He then recommended the United States do the following: cut off military-related technology transfer to China, rally its allies for a joint condemnation of any use of force, lead a boycott of international conferences in Beijing, and suspend official visits by Chinese leaders to the United States."⁷

The final witness, Mr. Harry Harding, cautioned against overreacting to specific short-term events. He reminded the Committee of China's crackdown on student protests in 1987, and added:

At that time some people warned that China was going to experience another anti-Rightist Campaign, or perhaps even another Cultural Revolution. And yet it became clear...that the situation was not so much a lasting or sweeping retrogression, but rather a brief period of tightening of political controls, following a relaxation again.

So it seems to me whatever action we take must not be precipitous, but must be based on an objectic [sic] assessment of long-term trends and tendencies.⁸

Mr. Harding noted that views expressed in the hearing were certainly being reported back to China.⁹ If China did review this hearing to assess the likely U.S. response to its using force to end the demonstrations, it would reasonably expect little immediate, substantive reaction. Although it is doubtful that this hearing caused the Chinese to respond forcibly to the demonstrations, the message from this hearing would have done little to deter the use of force. If we hoped to convince China not to use force, this hearing clearly did not further that objective.

B. PRESIDENT BUSH'S RESPONSE: PHASE I

The initial U.S. response to the Tiananmen Square violence was swift, although not necessarily severe. On June 5, 1989, President Bush announced the following U.S. action:

- Suspension of all government-to-government sales and commercial exports of weapons;
- Suspension of visits between U.S. and Chinese military leaders;
- Sympathetic review of requests by Chinese students in the United States to extend their stay;
- Offer of humanitarian and medical assistance through the Red Cross to those injured during the assault; and
- Review of other aspects of our bilateral relationship as events in China continue to unfold.¹⁰

President Bush stressed the need for "reasoned, careful action that takes into account both our long-term interests and recognition of a complex internal situation in China."¹¹ He noted further the importance of reacting "to setbacks in a way which stimulates rather than stifles progress toward open and representative systems."¹² The actions announced and the stated rationale bear striking resemblance to the combined recommendations of the three witnesses who testified before the Subcommittee on Asian and Pacific Affairs on May 4, 1989.

Regarding the call for tougher economic sanctions, he parroted Mr. Pei's May 4, 1989 remarks by saying that "[o]n the commercial side, I don't want to hurt the Chinese people."¹³ He added that it was commercial contacts which "have led, in essence, to the quest for more freedom," and that commercial incentives make the move to democracy more inexorable.¹⁴

C. PRESIDENT BUSH'S RESPONSE: PHASE II

Only two weeks after announcing the initial U.S. sanctions, the Administration announced additional sanctions. These sanctions included suspending high-level meetings between U.S. officials and the Chinese Government, and taking steps to postpone consideration of Chinese loan applications pending before international financial institutions, such as the World Bank.¹⁵

President Bush's June 5th remarks announcing the first U.S. sanctions make this further response superficially puzzling. Surely this complex situation affecting long-term interests was not reasonably expected to be resolved in two weeks. However, events between June 5th and June 20th seemed to compel President Bush to increase pressure on China. First, Deng Xiaoping publicly endorsed actions taken to end the demonstrations.¹⁶ His remarks demonstrated absolutely no repentance for the way China handled the demonstrations.

In addition, more student demonstrators were arrested, and eight demonstrators were sentenced to death.¹⁷ This increased Congressional pressure for tougher action. Under these circumstances, the President's actions are more understandable. In this context, his actions were described as:

apparently calibrated to be harsh enough to undercut pressure from Congress for additional sanctions but not so harsh as to aggravate Beijing into a deep breach in the Chinese-American relationship, which has been nurtured since 1972.¹⁸

These additional steps produced neither an immediate favorable response from China nor a halt to Congressional efforts for more severe sanctions.

Within less than a week of announcing this second set of sanctions against China, several demonstrators who had been sentenced to death were executed.¹⁹ Despite Congressional demands that President Bush "speak out more forcefully or impose tougher economic punishment," he did neither.²⁰ Further, Secretary of State James Baker told Congress that President Bush would not seek additional sanctions.²¹

D. CONGRESSIONAL ACTION

of these measures to produce quick, concrete results led Congress to act. Its first action was the International Development and Finance Act (IDFA) of 1989, signed on December 19, 1989.²²

This law prohibited the Export-Import Bank of the United States from financing any U.S. business activities with China. It also authorized the President to waive this prohibition if he reported that China had made progress in certain political reforms or that waiver was in the national interest of the United States.²³ The law further expressed the sense of Congress that the President should direct U.S. officials of the International Bank for Reconstruction and Development and the Asian Development Bank to oppose any loan or extension of financing or technical assistance to China.²⁴

Congress then used the Foreign Relations Authorization Act, 1990-1991, signed into law on February 16, 1990, to impose additional broad ranging sanctions. This legislation provided a detailed sense of Congress regarding the U.S.-China relationship, codified some action already taken by the President, and imposed additional sanctions against China.²⁵

Congress explicitly suspended the following programs and activities with respect to China:

1. The Overseas Private Investment Corporation (OPIC) activities which provide political risk insurance, financing, and reinsurance for U.S. businesses in countries in transition to market economies;²⁶
2. Trade and Development Agency funding for new activities;²⁷
3. Export licenses for defense articles on the U.S. Munitions List;²⁸
4. Export licenses for crime control and detection equipment;
5. Export of U.S. satellites for launch by China;²⁹
6. Nuclear trade and cooperation; and
7. Liberalization of export controls by the Coordinating Committee for Multilateral Export Controls (COCOM).³⁰

Although Congress suspended these programs with respect to China, Congress authorized the President to waive these provisions if he reported to Congress that China had made progress in certain political reforms or that the waiver was in the national interest of the United States.³¹

This legislation also expressed the sense of Congress that the President should take additional action if "systematic repression in China deepens."³² The additional action included

additional action if "systematic repression in China deepens."³² The additional action included reviewing China's most-favored-nation (MFN) trade status with the United States and consulting with members of the General Agreement on Tariffs and Trade (GATT) to reassess China's observer status and its request for full GATT membership.

E. PRESIDENT BUSH'S COUNTER

On December 19, 1989, when President Bush signed the IDFA into law, he simultaneously reported to Congress that it was in the national interest of the United States to waive the law's prohibitions against the Export-Import Bank's financial support for U.S. business activities in China.³³ This immediately nullified the one explicit sanction in the law.

White House Press Secretary Marlin Fitzwater tried to temper the impact of this waiver in the eyes of Congress. He stressed that the President's action did "not return the Export-Import Bank's activity to business as usual with China."³⁴ He added that we would see a reduced level of activity by the Bank regarding China, consistent with steps the Bank had already initiated in the absence of the legislation. He explained further that this action was taken to "preserve[s] a level playing field for U.S. business" by closely approximating the activity level of our competitors.³⁵ In the process of trying to smooth Congress' ruffled feathers, however, Mr. Fitzwater made one thing very clear: the President would not sacrifice U.S. business interests to pressure China.

On December 19, 1989, President Bush also reported to Congress that it was in our national interest to waive prohibitions against approving export licenses for three U.S.-built satellites for launch by China.³⁶ Press Secretary Fitzwater explained that this was in the interest of Australia, a good friend, and that the "sale of the three satellites represents approximately \$300 million worth of business for U.S. firms."³⁷ Both actions by President Bush on December 19, 1989 made it clear that U.S. business interests would affect application of legislatively mandated sanctions against China.

This message was not lost on Congress. When Congress enacted the Tiananmen sanctions law in February 1990, the conference committee addressed the "national interest" for a Presidential waiver. The report provided that "[a]lthough U.S. economic interests are part of the national interest, it is the intent of Congress that the economic interest of the U.S.

and of individual American companies not be the sole factor in a Presidential determination to apply the national interest waiver."³⁸

Despite this effort to limit Presidential waivers, since the Tiananmen sanctions have been in force "the President has used the waiver authority on at least 7 occasions to permit the export of U.S. satellites for launch in China."³⁹ However, the President seems to have downplayed the economic component of the national interest in these later waivers.

For example, on April 30, 1991 President Bush waived the restrictions for two satellite projects involving Chinese launch. In neither instance was there a mention of economic benefit to the United States or any American company. However, one of the waivers concerned an addition to the project cleared under the December 19, 1989 waiver; in granting the waiver in 1989 the White House had stressed the \$300 million benefit to U.S. companies. Thus, the written rationale for the waivers changed, but the economic component remained and the waivers continued.

These actions by President Bush softened the impact of the sanctions. It is not surprising that some early calls by members of Congress for tougher sanctions would gain momentum. Some of these calls for tougher sanctions sought to link China's MFN status with its human rights record.

F. CHINA'S MFN STATUS: THE EXPANDING HUMAN RIGHTS BATTLEFIELD

China's MFN status provides for lower tariff rates on Chinese goods imported into the United States than if China did not have that status. The difference in rates for many goods is significant. It is clearly in China's economic interest to maintain its MFN status with the United States.

As mentioned earlier, the Tiananmen sanction law expressed the sense of Congress that the President should review the advisability of continuing China's MFN status if "systematic repression in China deepens."⁴⁰ By separate law, China's MFN status must be renewed annually.⁴¹ It was in this context that the battle between Congress and President Bush over China's MFN status took place.

Despite strong interest in Congress to withdraw China's MFN status because of its human rights record, President Bush continued to renew China's MFN status after Tiananmen.

However, after President Bush renewed China's MFN status in June 1990, several bills were introduced in Congress to revoke China's MFN status or to condition subsequent renewals on specific improvement in China's human rights record. One such bill passed the House by a vote of 384 to 30, but it died because the Senate failed to vote on it prior to the end of the Congressional session.⁴²

President Bush renewed China's MFN status again in June 1991. This time, a bill conditioning future MFN renewal passed both houses of Congress. President Bush vetoed this bill on March 2, 1992.⁴³ Although the "House voted overwhelmingly (345 to 74) to override the veto, the Senate vote of 59 to 40 fell a few votes short of the two-thirds majority needed."⁴⁴

In his veto message to Congress, President Bush explained that the bill would "severely handicap U.S. business in China, penalizing American workers and eliminating jobs in this country."⁴⁵ He added that the bill also "would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform."⁴⁶ This message revealed a strong philosophical disagreement with Congress over the means to accomplish economic and political liberalization in China. However, it also confirmed that U.S. economic interests would play a major role in handling this China problem.

Following this narrow victory, President Bush again renewed China's MFN status in June 1992. Congress again passed a bill conditioning China's MFN status on human rights and other requirements.⁴⁷ President Bush, although acknowledging the limited steps China had taken on human rights were inadequate, again vetoed the legislation.⁴⁸ This time Congress took no steps to override the veto. However, the battle between President Bush and Congress over the appropriate manner to address China's human rights record had now become a campaign issue.

G. 1992 PRESIDENTIAL CAMPAIGN

President Bush's decision to renew China's MFN status prompted an immediate response from presidential candidate Bill Clinton. On the same day that MFN renewal was announced, candidate Clinton remarked: "I hope the Congress will move quickly to enact

[China MFN conditionality] legislation and that the President will allow it to become the law of the land."⁴⁹

Shortly thereafter, a Clinton/Gore position paper argued that the United States "should not reward China with improved trade status when it...failed to make sufficient progress on human rights since the Tiananmen Square massacre."⁵⁰ Soon after, the Democratic Party platform provided that the United States should condition "favorable trade terms for China on respect for human rights in China and Tibet, greater market access for U.S. goods, and responsible conduct on weapons proliferation."⁵¹

Candidate Clinton's criticism of President Bush's China policy extended beyond MFN to the entire application of sanctions to address human rights issues. On September 14, 1992, candidate Clinton commented:

"Instead of leading an international effort to pressure the Chinese government to reform, the Bush Administration has coddled the dictators and pleaded for progress, but refused to impose penalties for intransigence."⁵²

Considering the majority sentiment in Congress to condition China's MFN status on its improved human rights record, and perhaps other areas also, the Clinton position forecast a definite change in the U.S. posture if Clinton was elected. A tougher application of existing legislative sanctions and a tougher MFN stance was to be expected.

H. CLINTON ADMINISTRATION: PROMISE OF TOUGHER ACTION

1. APPLICATION OF TIANANMEN LEGISLATIVE SANCTIONS

Except for action concerning China's MFN status, the prediction of a tougher application of sanctions has not materialized. Although President Clinton has not waived any Tiananmen sanctions, he has exercised significant discretion in determining whether certain actions fall within the scope of the sanctions, or whether they are otherwise covered by prior Presidential waivers.

For example, President Clinton authorized the Export-Import Bank to extend \$72 million in credits to China.⁵³ This was possible without waiving the sanction in the IDFA of 1989, because President Bush had previously waived the sanction. However, this action

reflects a Clinton interest, similar to that of President Bush, in preserving U.S. business opportunities in China.

Further, the Tiananmen sanctions appear to prohibit the transfer to China of any nuclear materials, facilities, or components. However, "the Clinton Administration has recently decided to allow the sale of turbines and generators for Chinese nuclear power plants, and has determined that such a sale is not a violation of this sanction."⁵⁴

In addition, one of the Tiananmen sanctions called for the President to negotiate with COCOM to limit the liberalization of high tech equipment sales to China. However, last fall the Administration eased up on COCOM's restrictions on sales of advanced computers and other high tech equipment to China and approved the sale of a \$7 million plus supercomputer to China.⁵⁵

When the press challenged President Clinton about this computer sale, he responded by saying that "the computer sale for their [China's] weather service is something that they could get elsewhere if they didn't get it from the United States."⁵⁶ This remark demonstrates that despite tougher rhetoric by President Clinton, U.S. business interests continue to influence application of sanctions. It also reveals the weakness of unilateral economic sanctions the United States has in place.

The one area in which President Clinton has taken a significantly different approach from that of President Bush concerns China's MFN status. However, whether this represents a substantive difference or merely a superficial one is not yet clear.

2. CONDITIONAL MFN STATUS

On May 28, 1993, President Clinton renewed China's MFN status for another year. In doing so, however, he conditioned next year's renewal on specific improvements in China's human rights record.⁵⁷ The specific human rights areas referenced in his Executive Order include:

- freedom of emigration
- complying with the 1992 China-U.S. prison labor agreement
- adhering to the Universal Declaration of Human Rights
- releasing/accounting for political and religious prisoners/detainees, including Tiananmen Square demonstrators

- humane treatment of prisoners, including access to prisoners by international human rights and humanitarian organizations
- protecting Tibet's distinctive religious and cultural heritage
- permitting international radio and TV broadcasts into China

Generally, renewal of MFN next year may not take place unless China makes overall, significant progress in all these areas of human rights. Although the true strength of this action can be measured only by later developments, as China's MFN status faces renewal in July 1994, it represents the toughest action by the United States to date in response to China's human rights record since the Tiananmen Square incident.

This action by President Clinton represents the latest in an extensive series of U.S. Government actions since the Tiananmen Square incident in 1989 designed to pressure China to alter its approach to human rights. Most of the sanctions imposed since 1989 remain in force. The question remains whether the five years of sanctions against China have produced the desired results.

I. ASSESSING THE SANCTIONS

To evaluate the effectiveness of our sanctions, we must review what conditions originally existed that caused us to impose the sanctions and what our objectives were at that time. Then, we may examine where we are today and assess whether the sanctions have been a success or failure.

1. IDENTIFYING OBJECTIVES

The initial U.S. action on June 5, 1989 was taken to condemn China's use of violence to suppress the pro-democracy demonstrations. Our stated objective, reflected in President Bush's comment to Chinese leaders, was for China "to avoid violence and to return to their previous policy of restraint."⁵⁸ This appeared to be a modest objective.

We also had a broader goal to support the demonstrators' substantive demands for greater freedom and democracy.⁵⁹ It was unclear in the early period following the Tiananmen incident, however, whether the sanctions were intended to address merely our narrower objective, or also our broader goal of supporting democracy. Would the sanctions be lifted

when the violence ended or only when democracy reigned in China? The objectives of the initial sanctions were not stated with the precision needed to answer this question.

The second set of sanctions announced only two weeks later was imposed in response to the continued "wave of violence and reprisals by the Chinese authorities against those who have called for democracy."⁶⁰ The objectives of these added sanctions were identified in a formal petition to Chinese Ambassador, Han Xu, which appealed for "clemency for demonstrators in Shanghai and Beijing who have been sentenced to death, and for pardons for those who have been sentenced to jail terms."⁶¹

When China proceeded to execute some of the prisoners who had been sentenced to death, it became clear that these objectives could no longer be fully achieved. Congress then entered the fray with legislative sanctions which specified additional objectives (conditions):

- lift martial law
- halt executions and other reprisals against nonviolent demonstrators
- release all political prisoners
- increase respect for internationally recognized human rights
- permit freer flow of information and greater access for foreign journalists, and end jamming of Voice of America.⁶²

Soon thereafter Congress expanded the sanctions further and explicitly added Tibet to the area within which it expected to see the prior conditions met.⁶³

When President Clinton conditioned China's future MFN status, he further expanded the objectives to include:

- added emphasis on religious freedoms
- ensure humane treatment of prisoners, such as allowing access to prisoners by human rights organizations
- protect Tibet's religious and cultural heritage
- ensure that forced abortion and sterilization are not used to implement China's family planning policies.⁶⁴

This highlights the first difficulty in assessing the effectiveness of our sanctions. The United States not only progressively increased the level of sanctions against China, but also progressively expanded the objectives (conditions) to be achieved. Thus, we presented China with a series of different sanctions, and in each instance a changing set of demands to be met

if they were to avoid the new and improved sanctions. This provoked an indignant response from China. It also has made it extremely difficult to measure the effectiveness of each set of sanctions.

2. WHERE ARE WE TODAY: IS THE GLASS HALF FULL OR HALF EMPTY?

One year after Tiananmen, President Bush concluded that modest progress had been made by China. Examples included "lifting of martial law, renewing our consular access in Tibet, and release of 211 more detainees."⁶⁵ In addition, approximately 17,000 Chinese nationals received U.S. visas to emigrate from the mainland during that year.⁶⁶ The following year another 133 prisoners on a list provided by the United States were released.⁶⁷ This was followed the next year by additional prisoner releases, a complete name-by-name response from China to our prisoner list inquiry, continued progress on emigration from China, and a lessening of tensions in Tibet.⁶⁸

Prior to President Clinton's renewal of China's MFN status in June 1993 he acknowledged the release of additional political prisoners, improved religious conditions in Tibet, and excellent emigration opportunities from China.⁶⁹ Since President Clinton announced in 1993 that renewal of China's MFN status in 1994 was conditioned on its human rights record, additional progress has been observed. For example, more prisoners have been released, including some prominent Tibetan political prisoners, China has met for the first time with officials of the International Committee of the Red Cross regarding access to prisons, and China has agreed to permit inspection of prisons suspected of producing goods for export.⁷⁰

Throughout the period since Tiananmen, both President Bush and President Clinton have recognized progress in China's human rights posture. U.S. sanctions were likely a factor in this progress. However, China's movement in the human rights arena has not been completely in the positive direction, nor is it where the United States wants it to be. In addition, there have been numerous instances of retrenchment, rather than merely a failure to move forward on our conditions.

For example, within the last two months China announced an extensive ban on certain religious activities which subjects violators to unspecified punishment.⁷¹ The most disturbing

example is China's recent roundup and detention of political activists during recent visits to China by Assistant Secretary of State for Human Rights, John Shattuck, and Secretary of State Christopher.⁷²

We have imposed sanctions against China since June 1989 to achieve certain human rights objectives. Despite the progress that has been observed, consensus among U.S. officials within the Executive Branch and the Congress is that our objectives have not been achieved. It is therefore useful to consider why our sanctions have not produced the desired result.

3. WHY HAS OUR SANCTIONS CAMPAIGN FAILED?

a. General

The fundamental reason for weakness in our sanctions campaign is the relative intensity and importance of each party's interests. For China, the political stability considered vital to the regime's survival is at stake. For the United States, general principles are at issue, but China's human rights record poses no direct or immediate threat to U.S. physical security, its economic well-being, or its free and democratic institutions. Thus, at the start, the People's Republic of China, as an institution, has more at stake than the United States and is likely to be more persistent in pursuing its objective.

In assessing the strength of this position, it is useful to evaluate our relative interests as nation-states within the framework of Maslow's Hierarchy of Needs for individuals.⁷³ For the People's Republic of China, as an institution, the most basic need is at stake - survival. All other interests are secondary. Thus, it is less likely that China would perceive other interests, such as economic interests, to be important enough to risk the survival of the regime.

For the United States, its interest in promoting democratic values elsewhere likely falls below its interests in survival, economic well-being, and world order. Although a free and democratic China may arguably serve some of our other higher ranked interests, the relative priority of the interest at stake for the United States makes conflict with other higher ranked interests a stronger possibility than for China. Thus, it is more likely that the United States will feel compelled to compromise its push for democracy and human rights in China if a

higher level interest (e.g., economic) is at stake.

b. Economic Interests v. Promoting Democracy

The clash between U.S. economic well-being and U.S. interest in promoting democracy is a significant factor in the limited success of our sanctions campaign. China's recognition of this clash of interests has magnified its impact.

As described earlier, despite differences in rhetoric, both President Bush and President Clinton have waived the application of sanctions or rationalized a course of action falling outside the scope of the sanctions because of perceived damage to U.S. economic interests. President Clinton's rationale for selling China a \$7 million supercomputer, that is, that they could get it elsewhere, illustrates the extent to which we are prisoners of economic interests.⁷⁴ This has led Chinese leaders on several occasions to remark publicly that U.S. sanctions will harm the United States more than China, and has added to China's intransigence and frustrated the purpose of the sanctions.⁷⁵

President Clinton's remark concerning the computer sale demonstrates an additional factor which serves to weaken the effectiveness of our sanctions. China can buy the computer elsewhere because our sanctions have been imposed unilaterally.

c. United States Goes It Alone

Shortly after President Bush imposed his two sets of sanctions against China in June 1989, Japan, Britain, France, Germany, Italy, and Canada agreed to take the following actions:

- condemn the repression in China;
- suspend official high-level contacts with China;
- suspend arms trade with China;
- postpone consideration of new loans to China from the World Bank;
- permit extended stay of Chinese students in their countries.⁷⁶

By the end of the following year, however, China had ended martial law and released many prisoners, our allies had lifted the sanctions, and Japan had resumed full contact with China.⁷⁷ The United States now stood alone. We were alone, not only with President Bush's

sanctions, but also with the full scope of Congressional sanctions.

To the extent that sanctions prevent U.S. businesses from participating fully in China's growing economy, U.S. businesses are now at a significant competitive disadvantage in the world's fastest growing market. U.S. businesses could be protected only if President Bush and President Clinton waived sanctions and construed sanctions narrowly. This lack of international consensus on U.S. sanctions severely weakened their effect.

d. Threat of MFN Revocation

The threat of MFN revocation has been in place since June 1993, but has not produced the desired result. The reason is likely a combination of the factors discussed above: adverse economic impact on U.S. businesses and consumers, our acting alone, and China's understanding of both factors.

U.S. businesses continue to lobby heavily to prevent revocation of China's MFN status.⁷⁸ The retail industry is concerned with loss of China's low-priced products and its impact on sales generally. Further, because most products imported from China are low-cost consumer goods, increase in the cost of these goods will affect low-income U.S. consumers disproportionately.⁷⁹

Export-oriented businesses are concerned that China will retaliate by raising tariffs on U.S. imports into China or restrict imports directly. At stake is approximately \$9 billion in U.S. exports to China.⁸⁰ The Commerce Department estimates "an average of 19,100 jobs are created for each billion dollars' worth of exports."⁸¹ Thus, approximately 170,000 largely high tech U.S. jobs are at stake.⁸²

Other U.S. businesses that currently invest in China or who are competing for large investment opportunities are also lobbying against cutoff of China's MFN status. They also fear retaliation. For example, Chrysler is competing with Mercedes-Benz to construct a minivan factory in China. "If Chrysler wins, it would mean immediate orders for \$500 million in auto parts from its own plants and continuing support after the factory is completed."⁸³ Chrysler fears MFN revocation, while German Chancellor Kohl offers favorable financing, will influence China against Chrysler.

The limited influence of the U.S. threat to revoke China's MFN status can also be

traced, in part, to lack of international support. In this context, lack of support comes in two forms. First, all other countries grant China the equivalent of MFN status. Second, large portions of the international community, including many allies, have publicly opposed our revoking China's MFN status.

The most vocal opposition to MFN revocation comes from Hong Kong, Taiwan, and Japan, all of whom have major investment in China and will suffer economic harm if China's MFN status is revoked.⁸⁴ However, opposition is present throughout the Pacific, based in part on fear of economic and social instability in the region if China loses its MFN status.

This opposition was emphasized on Secretary Christopher's recent trip to Australia, en route to Japan and China. At a joint news conference with Secretary Christopher in Canberra, Australian Foreign Minister Gareth Evans publicly announced that Australia did not support the United States action conditioning China's MFN status on its human rights record.⁸⁵ The timing and setting of this remark highlighted the United States' international isolation on this matter. Secretary Christopher was en route to China to discuss human rights and MFN, and China was openly flaunting its lack of concern for U.S. human rights views by rounding up political activists.

When we consider our international isolation on this issue and the extensive damage to U.S. businesses, workers, and consumers, MFN emerges as the nuclear weapon in the human rights war. The massive collateral damage MFN revocation will cause to parties other than China suggests it is too blunt an instrument for this purpose. For this reason, the threat of its use is not very credible. The lack of credibility regarding MFN revocation is also fostered by a history of U.S. reluctance to impose sanctions fully when the risk of economic harm is much more limited.

e. The Bottom Line

Five years after Tiananmen, the United States continues to sanction China because of its human rights record. However, the effective scope of the sanctions has been severely limited to prevent economic harm to U.S. interests. The potential economic harm that would

flow from many of the sanctions is due to the fact that the United States is isolated on the sanctions battlefield.

As suggested at the outset, the U.S. resolve to promote freedom, democracy, and human rights in China has been extensively diluted by having to accommodate higher level economic interests. On the other hand, China's resolve to maintain political and social stability, considered vital to the survival of the People's Republic of China, still dominates.

The limited success with sanctions in the human rights arena has not deterred the United States from using similar tools in other disputes with China. One such area of direct concern from a national security perspective is missile proliferation.

III. MISSILE PROLIFERATION SANCTIONS AGAINST CHINA

In January 1994, the Secretary of Defense identified proliferation as the foremost among four dominant threats to U.S. security.⁸⁶ Missile proliferation by China is one component of this threat which has been the subject and target of U.S. sanction activity.

This section examines (1) U.S. efforts to establish sanctions to combat missile proliferation, (2) the use of sanctions against China for its missile proliferation activities, and (3) the effectiveness of the sanctions to address our missile proliferation concerns.

A. GOVERNMENT EFFORTS TO ESTABLISH SANCTIONS

1. MTCR AND U.S. LAW

In 1987, the United States and several allies established the Missile Technology Control Regime (MTCR) "as a set of guidelines to control the export of equipment and technology that could contribute to a missile system capable of delivering nuclear weapons."⁸⁷ The MTCR Equipment and Technology Annex lists items and technologies to be restricted from export.

The MTCR has no legal status. However, the United States implemented the MTCR provisions as part of its domestic law in both the Export Administration Act (EAA) and the Arms Export Control Act (AECA)⁸⁸ to regulate U.S. exports.

Because of increasing concern with proliferation of MTCR technology, Congress established U.S. sanctions against those who export this technology contrary to the MTCR

guidelines. Congress added these sanctions as part of the 1991 National Defense Authorization Act (NDAA).⁸⁹

This law requires the President to impose certain sanctions when he determines that a person knowingly transfers any MTCR equipment or technology that contributes to the development of missiles in a country that is not an MTCR adherent.⁹⁰ The required sanctions vary depending on whether the transferred items are complete missile systems or subsystems (Category I) or merely smaller components or technology (Category II), and whether the transfer "substantially" contributes to development, design, or production of missiles in the receiving country.⁹¹

The required sanctions include denying for two years U.S. Government contracts and licenses for transfer of missile equipment and technology (Category II), denying all U.S. Government contracts and denying licenses for transfer of U.S. Munitions List items for two years (Category I), and denying all imports to the United States for two years (if substantial impact on missile program).⁹²

Although these sanctions seem very specific, evidence to support a violation of MTCR provisions is usually circumstantial. This gives the President significant discretion in determining whether a violation has occurred and what type of violation has occurred. In addition, the law permits the President to waive the sanctions if that is "essential to the national security of the United States."⁹³

This legislation was targeted very specifically to control MTCR equipment and technology. However, many members of Congress wanted to exert even greater control over China's weapons trade. This led to several efforts to link China's weapons trade to MFN status.

2. CHINA'S MFN STATUS AND WEAPONS TRADE

As mentioned earlier, there have been several Congressional efforts since 1990 to condition China's MFN status. Although earlier discussion focused on human rights, each bill also conditioned China's MFN status on responsible behavior by China on weapons proliferation. It is important to recall that Congress passed two of those bills by solid majorities, but President Bush vetoed them.

After President Bush vetoed the conditional MFN legislation in 1992, presidential candidate Clinton criticized President Bush's China policy. The Democratic Party platform provided that China's MFN status should be conditioned "on respect for human rights in China and Tibet, greater access for US goods, and responsible conduct on weapons proliferation." (emphasis added)⁹⁴

When President Clinton took office it was reasonable to expect action to condition China's MFN status, in part, on responsible conduct on weapons proliferation. Instead, when President Clinton renewed China's MFN status in 1993, he conditioned renewal in 1994 solely on China's human rights record.⁹⁵ He explicitly divorced China's MFN status from China's weapons proliferation activities.⁹⁶

Despite expectations that President Clinton would support Congressional efforts to expand sanctions on China for its weapons proliferation, that has not occurred. The only sanction provisions addressing transfer of missile technology are those in the AECA and the EAA discussed above.

B. USE OF AECA/EAA SANCTIONS

On July 8, 1991, President Bush imposed sanctions on China based on China's transfer to Pakistan of missile components within Category II of the MTCR.⁹⁷ The sanctions he imposed were the least onerous possible; they denied U.S. Government contracts and export licenses for the transfer of missile technology or equipment to two Chinese entities for two years. The primary U.S. economic impact was on U.S. satellite makers.

Within eight months after the United States imposed these sanctions, China agreed to abide by the MTCR guidelines and to sign the Nuclear Nonproliferation Treaty (NPT).⁹⁸ In response to China's actions, President Bush determined that waiver of these sanctions was essential to our national security, and he removed the sanctions.⁹⁹ The sanctions seemed to produce meaningful results.

However, reports soon surfaced that China was again engaged in questionable missile technology transfers. Despite suspicions of improper Chinese activity, no further action was taken against China during the remainder of President Bush's Administration.

By the time President Clinton made his MFN decision in May 1993, evidence was

growing to support the conclusion that China had again transferred missile components to Pakistan in violation of the MTCR guidelines it had pledged to follow.¹⁰⁰ President Clinton's tough campaign stance on this issue and his failure to condition MFN on China's weapons proliferation record as he had once urged, created enormous pressure for him to act quickly to impose sanctions under the AECA and EAA.¹⁰¹ He did so on August 26, 1993.

Just as President Bush had done in 1991, President Clinton found a Category II MTCR violation and imposed the same type sanction.¹⁰² The primary impact on U.S. businesses again fell on the satellite producers. This time, however, the satellite producers responded with an immediate and extensive public relations effort to highlight the harm they and their workers would suffer because of the sanctions.¹⁰³ The strong adverse reaction by the satellite producers did not go unnoticed in China. China's Foreign Minister quoted satellite industry figures to argue that the sanctions would harm the United States more than China.¹⁰⁴

Although sanctions are imposed for two years, the provision for a Presidential waiver provides an opportunity to lift them earlier, as President Bush did in 1992. The economic impact on vocal U.S. businesses provided the Clinton Administration strong motivation to find a reason to lift the sanctions.

Media reports created the impression that the Administration was perhaps too anxious to find a basis to remove the sanctions. A senior State Department official was quoted as saying: "[w]e virtually told the Chinese, 'If the shipment [to Pakistan] was just Ping-Pong balls, tell us.'"¹⁰⁵ That environment was not conducive to obtaining any quick concessions from China.

Further action by the Administration reinforced this position. The Washington Post reported in late October that the National Security Council was reexamining the sanctions based on industry objections supported by the Commerce Department.¹⁰⁶ In early November, the Administration reportedly proposed to waive sanctions in return for another, more explicit, promise by China to abide by the MTCR guidelines, without any requirement for China to admit a current violation.¹⁰⁷

China did not admit any violation, and did not agree to any more explicit promise to abide by the MTCR guidelines. However, two months later the Administration modified the sanctions to exclude all satellites licensed by the Commerce Department. Thus, with

absolutely no movement by China, the sanctions had been reduced. U.S. business interests drove the bargain for China. China's Foreign Minister seems to have read the tea leaves correctly.

C. ASSESSING THE IMPACT OF AECA AND EAA SANCTIONS

1. IDENTIFYING OBJECTIVES

The objective of the AECA and EAA sanction provisions is to deter all countries from transferring missile technology and equipment contrary to MTCR guidelines. Arguably, any violation of the MTCR guidelines requiring imposition of sanctions reflects a failure of deterrence. To that extent, this legislation is a failure. The United States has sanctioned China, Russia, North Korea, India, Pakistan, Syria, and Iran under this legislation.¹⁰⁸

A more practical measure of the impact of these sanctions is the extent to which the use of sanctions, when necessary, has produced desired improvement in the nonproliferation climate between the states involved. One such measure may be the extent to which we accomplish specific objectives established as conditions for waiving the sanctions after they have been imposed. Another measure may be the extent to which additional violations occur which require reimposing sanctions.

2. MEASURING OUR SUCCESS AND FAILURE

If we were to measure the impact of the sanctions in March 1992, we would have rated them very high. The sanctions seemed to have convinced China to sign the NPT and to agree to adhere to MTCR guidelines, both major accomplishments which were actively sought as conditions for waiving the sanctions. Both conditions were seen as very important national security benefits.

If we were to measure the impact of the sanctions in mid-1993, we would rate them somewhat lower. China engaged in sanctionable conduct again, despite experiencing eight months of sanctions before reaching a settlement in March of 1992.

The relative failure of the sanctions in mid-1993 has grown into greater failure through the remainder of 1993 and into 1994. When sanctions were imposed in August 1993, the Administration initially sought to have China admit the violation and to reaffirm its

commitment to MTCR guidelines more formally and in more detail. China has steadfastly refused.

3. WHY ARE THESE SANCTIONS FAILING NOW?

a. General

Unlike the apparent failure of our human rights sanctions which can be attributed to the relative importance of the interests at stake for each country, the current failure of our weapons proliferation sanctions can be attributed to a failure of will and integrity. The failure of our human rights sanctions is understandable and could have been predicted. This failure is inexcusable.

Returning to the notion of hierarchy of state interests, it appears that the relative intensity and importance of the interests at stake for each country in this case should tip the balance in the favor of the United States. For China, the predominant interest at stake is economic - the need for hard currency. For the United States, the asserted predominant interest at stake is physical security - proliferation of weapons of mass destruction and their delivery systems. In this equation the United States seems to have the most at stake and should be the most persistent in pursuing its objective.

For the People's Republic of China, ability to sell missile technology and equipment does not directly affect its physical security or survival. Although arming Pakistan may be designed, in part, to address an Indian threat, this is not the dominant interest at stake. Thus, to the extent that China is confronted with a greater economic threat or a threat to the survival or well-being of the regime in power, it should compromise. We have not presented China with that threat.

For the United States, if weapons proliferation is the security threat we claim it is, it should rank above economic interests in our hierarchy of state interests. As such, we should not feel compelled to compromise our security interest for lower ranking economic interests. The problem is we do not treat proliferation as the predominant threat.

b. Low Threat Level

Perhaps the threat is not great. When the United States imposed sanctions in August

1993, as it did in July 1991, it imposed the lightest sanctions available. By not imposing the added sanction of prohibiting import into the United States of all offending Chinese entity products, the United States was declaring that the transfer of missile components and technology to Pakistan did not "substantially contribute[d] to the design, development, or production of missiles" by Pakistan. (emphasis added)¹⁰⁹

Although the Administration's rhetoric would suggest that China's actions had a substantial impact on Pakistan's missile program,¹¹⁰ our choice of sanctions and our application of the sanction we selected conveyed a different message. The manner in which we applied the sanction we chose reflects a greater concern for economic interests.

By refusing to impose the sanction commensurate with the danger we claim proliferation presents, we immediately lost the advantage of comparative importance of interests. Further claims by us to China that proliferation is our principal concern have a hollow ring and lack credibility.

c. The Dominance of Economic Interests

From the day sanctions were announced last August, economic impact on satellite companies, not threat of weapons proliferation, has dominated the news. In addition, the lobbying effort by the satellite companies directed to Congress and throughout the Executive branch has been relentless.¹¹¹

The Administration's action to modify the sanctions to exclude all satellites licensed by the Commerce Department was a clear surrender to U.S. business interests. Unfortunately, our obvious preoccupation from the beginning with economic impact on U.S. businesses created the appearance that we were desperate for a resolution. Our desperation was confirmed when a quick resolution did not materialize - we modified the sanctions unilaterally.

d. The Bottom Line

The limited sanctions remain in place. There are no apparent prospects for a break in the deadlock. Unfortunately, the U.S. businesses affected by the remaining sanctions are now

the economic victims of a failed policy. To suffer economic harm in the interest of a higher benefit (e.g., physical security) is acceptable. To do so under these conditions is not.

IV. CONCLUSION: RECOMMENDED ALTERNATIVES

A. GENERAL: "KNOW WHEN TO HOLD 'EM; KNOW WHEN TO FOLD 'EM"

Failure of our sanctions against China in the human rights and missile proliferation areas is due largely to our failure to properly assess the relative strength of our interests. The advantage of examining both of these issues side by side is that it highlights this deficiency.

In the interest of promoting freedom and democracy in China we are prepared to revoke China's MFN status and appear willing to risk:

- over 170,000 American jobs;
- increased cost for clothing and other consumer goods with a disproportionate impact on low-income Americans;
- approximately \$9 billion in U.S. exports to China;
- severe economic, social, and political harm to Hong Kong at a critical time leading to its return to China;
- severe economic and social disruption in the entire Pacific region;
- severe economic hardship for Chinese workers in those areas of China with the greatest economic and political independence;
- and
- severe regional and world economic instability.

On the other hand, in the interest of stopping proliferation of delivery systems for weapons of mass destruction we are unwilling to prohibit the import of products from a few Chinese companies into the United States, and we cannot accept the full impact of limited sanctions on a few U.S. satellite producers. It is time to reassess our interests and priorities.

B. PRIORITIZING OUR INTERESTS

Before formulating policies to address human rights conditions in China and weapons proliferation threats, we have to assess realistically where those concerns fit among our national interests. The starting point is to establish a general hierarchy among our interests. The following hierarchy which ranks our interests is proposed:

1. Survival (includes physical security and safety, and preservation of our democratic institutions);
2. Economic well-being for the country, its businesses, and its people;
3. Stable world order;
4. Promoting American values abroad (includes democracy and human rights).

Although lower ranking interests can sometimes support higher ranking ones, this hierarchy serves as a template to help resolve conflicts between competing interests. Based on this ranking of U.S. interests, changes are needed in our China policies on human rights and weapons proliferation.

C. PROPOSED HUMAN RIGHTS POLICY REGARDING CHINA

1. General

We must ensure that our policy clearly reflects our true hierarchy of interests. If it does not, it lacks credibility.

Therefore, because our interest in promoting democracy and human rights abroad is generally subordinate to our interest in economic well-being at home, we should design a policy that does not invite conflict with significant economic interests. That is where we are today, and that is why our policy lacks credibility. We try to act as though our human rights concerns are dominant although we know they are not, and China recognizes they are not.

To the extent we contemplate using economic force to achieve our human rights objectives, we should draw from the principles we have developed recently regarding the use of U.S. military force. President Clinton mentioned in his inaugural address that we will act militarily with others when possible, but "alone when we must." This reflects a strong preference for multilateral action, but reserves the right and responsibility to act alone to address vital U.S. interests.

In the same military vein, Ambassador Madeleine Albright has said that "where there is a threat to international peace that affects us, but does not immediately threaten our citizens or territory, it will be in our interest to proceed in partnership with the UN or other appropriate groupings to respond to the threat."¹² She stressed further that through this

approach we benefit from the "voice of the community of nations in behalf of a cause that we support."¹¹³

2. Multilateral Human Rights Focus

The principles addressed by President Clinton and Ambassador Albright regarding the use of U.S. military force are equally applicable to the use of U.S. economic force in our human rights campaign. The human rights threat in China affects us but does not immediately threaten our security or economic well-being. Therefore, economic force to address China's human rights should be employed only in partnership with other groups in the international community.

This multilateral focus on economic force should also reflect the general focus of our entire human rights campaign. That focus should be on international organizations, such as the United Nations and its human rights subgroups (e.g., U.N. Human Rights Commission), or other large ad hoc multinational groups.

Critics of this approach are likely to suggest that this is a formula for inaction. However, although the United States may be the most powerful country, militarily, economically, and politically, it is contrary to our own democratic principles to attempt to force internal political change on others through economic warfare and other forms of unilateral coercion. Unilateral action, without international support, offers no legitimacy to our cause, even if that cause is to further internationally recognized norms regarding human rights.

Our power of persuasion in the international community should be our primary tool. The success of our democratic system should be our strongest argument. Failure to mobilize international support for our position does not justify unilateral action.

Finally, the most effective and noncoercive unilateral action is to remain engaged economically and culturally with China. This offers the greatest prospects for positive change.

Throughout this process, we cannot expect instant change. Patience is required.

D. PROPOSED MISSILE PROLIFERATION POLICY TOWARD CHINA

1. General

The general structure of the U.S. approach to fighting weapons proliferation is consistent with the seriousness of the threat and with our reasoned preference for multilateral efforts to address international problems. We are parties to a multitude of treaties, agreements, and regimes addressing all aspects of proliferation. In addition, U.S. legislation, such as the AECA and EAA, is designed to enforce internationally agreed upon standards, rather than unilaterally determined U.S. standards.

Thus, the appropriate mechanisms are in place to wage the battle. The failure has been in the application of the tools.

2. Need for Consistency in Word and Deed

Our actions must be consistent with our true hierarchy of interests and with our declarations regarding those interests. If they are not, they are unlikely to produce their intended results.

The United States has asserted that China's sale of MTCR-restricted missile components to Pakistan is a security threat. The AECA and EAA provide appropriate tools to respond to this threat, if used properly. Our response under the AECA and EAA to China's missile sales to Pakistan should have been to:

- deny U.S. Government contracts and export licenses for any missile technology and equipment destined for any Chinese entity engaged in production or development of electronics, space systems, military aircraft, or missile technology and equipment, without the modifications that the Administration made to temper the economic impact on some U.S. businesses;
- and
- prohibit all imports into the United States from the same Chinese entities.

This is the toughest action possible under the AECA and EAA. Anything short of this response conveys a clear message that the action by China does not pose a serious security concern for the United States. Our action must demonstrate that an interest higher than economics is at stake.

Although tough action is recommended, tying China's MFN status to its weapons

proliferation conduct, as some have suggested, would be counterproductive and is not recommended. The predominant impetus for China to sell weapons is economic - obtaining hard currency. Loss of MFN status would increase China's need for military sales.

There are many ways to address the problems we face with China. However, it is important that whatever approach is adopted reflect a consistent and rational appraisal of the relative interests at stake.

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30. This provision required the President to negotiate with COCOM to suspend the process of liberalization with China, and required the President to oppose liberalization for China within COCOM.
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